

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

*In re Garrett Motion Inc., et al.,*¹

Debtors.

GARRETT MOTION INC. and GARRETT
ASASCO INC.,

Plaintiffs,

v.

HONEYWELL INTERNATIONAL INC.,
HONEYWELL ASASCO LLC, HONEYWELL
ASASCO 2 LLC, HONEYWELL HOLDINGS
INTERNATIONAL INC., SU PING LU, and
DARIUS ADAMCZYK,

Defendants.

Case No. 20-12212

Chapter 11
(Jointly Administered)

Adversary Proceeding No. 20-1223

DECLARATION OF MATTHEW R. SCHECK IN SUPPORT OF PLAINTIFFS' MOTION
FOR LEAVE TO FILE UNDER SEAL

I, Matthew R. Scheck, pursuant to 28 U.S.C. § 1746, hereby state that I have personal knowledge of the facts set forth herein:

1. I am a partner at the firm Quinn Emanuel Urquhart & Sullivan, LLP. I submit this declaration in support of Plaintiffs' Motion for Leave to File Under Seal.

2. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiffs' Memorandum of Law in Support of Motion to Seal, filed on January 15, 2020 in *Garrett Motion Inc. v. Honeywell*

¹ The last four digits of Garrett Motion Inc.'s tax identification number are 3189. Due to the large number of debtor entities in these Chapter 11 Cases, which are being jointly administered, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at <http://www.kccllc.net/garrettmotion>. The Debtors' corporate headquarters is located at La Pièce 16, Rolle, Switzerland.



International Inc., 657106/2019, in the Supreme Court of the State of New York, County of New York, Commercial Division.

3. Attached hereto as **Exhibit 2** is a true and correct copy of Defendants' Notice of Non-Opposition, filed on January 29, 2020 in *Garrett Motion Inc. v. Honeywell International Inc.*, 657106/2019, in the Supreme Court of the State of New York, County of New York, Commercial Division.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the February 4, 2020 transcript in *Garrett Motion Inc. v. Honeywell International Inc.*, 657106/2019, in the Supreme Court of the State of New York, County of New York, Commercial Division.

5. Attached hereto as **Exhibit 4** is a true and correct copy of the February 4, 2020 Order of Justice Andrew Borrok, J.S.C. of the Supreme Court of the State of New York, County of New York, Commercial Division in *Garrett Motion Inc. v. Honeywell International Inc.*, 657106/2019, filed on February 6, 2020.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 6, 2020
Los Angeles, California

/s/ Matthew R. Scheck
Matthew R. Scheck

EXHIBIT 1

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION**

GARRETT MOTION INC. and GARRETT ASASCO
INC.,

Plaintiffs,

v.

HONEYWELL INTERNATIONAL INC., HONEYWELL
ASASCO LLC, HONEYWELL ASASCO 2 LLC,
HONEYWELL HOLDINGS INTERNATIONAL INC., SU
PING LU, and DARIUS ADAMCZYK,

Defendants.

Index No. 657106/2019

IAS Part 53

Hon. Andrew S. Borrok

Motion Sequence No. 2

Plaintiffs' Memorandum of Law in Support of Motion to Seal

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Attorneys for Plaintiffs

INTRODUCTION

On January 15, 2020, Plaintiffs Garrett Motion Inc. and Garrett ASASCO Inc. (“**Plaintiffs**”), through counsel, filed a redacted Complaint against Honeywell International Inc., Honeywell ASASCO LLC, Honeywell ASASCO 2 LLC, Honeywell Holdings International Inc. (collectively, “**Honeywell**”), Su Ping Lu, and Darius Adamczyk (collectively, with Honeywell, “**Defendants**”). Plaintiffs also filed an unredacted Complaint concurrently with this Memorandum of Law, as an exhibit to the Affirmation of Michael B. Carlinsky in Support of Plaintiffs’ Motion to Seal. The unredacted Complaint contains confidential information that Plaintiffs request be filed and remain under seal. Pursuant to the rules of this Court, Plaintiffs request that this Court enter an Order permitting the sealing of the unredacted Complaint.

BACKGROUND

This action arises out of Honeywell’s spin-off of Garrett in October 2018. Through execution of a September 12, 2018 Indemnification and Reimbursement Agreement (“**Indemnification Agreement**”), and a subsequent assignment agreement, Honeywell purported to impose on Garrett the financial burden of ninety percent of Honeywell’s legacy Bendix-related asbestos liability. Compl. ¶ 74. Pursuant to the Indemnification Agreement, Honeywell provided Garrett certain information subject to a confidentiality provision. IA § 2.16. Paragraphs 61, 82, 83, 84, and 85 of the unredacted Complaint contain Garrett and Honeywell’s sensitive business and financial information related to the spin-off, including certain information that Garrett received from Honeywell.

Pursuant to the Indemnification Agreement, Garrett is entitled to information from Honeywell relating to the asbestos liability sufficient to allow Garrett to prepare its financial statements as an independent SEC-reporting company. Compl. ¶ 150. While refusing Garrett

much of the information it requested, Honeywell provided Garrett with certain information regarding future projections for its Bendix-related asbestos liability, subject to the confidentiality provisions in the Indemnification Agreement, and a subset of data on asbestos claims asserted against Honeywell and corresponding settlements, subject to a confidentiality agreement executed between the parties on September 4, 2019. Paragraphs 108, 112, 117, 127, 135, 136, 137, 138, 143, 155, 172, 173, 173 n.14, 181, 182, 192, 193, 194, 195, 197, 200, 201, 202, 203, 204, 212, 213, 221, 223, 226, 232, 233, 234, 235, 236, 250 n.23, 258, 259, 260, 261, 263, 264, 265, 266, 273, 274, and 275, and Headings VI.A.1(b) and VI.A.2(c) of the unredacted Complaint contain discussions of such confidential information regarding underlying claims and litigations.

On December 2, 2019, Garrett initiated this action by filing a Summons with Notice with the Court. On December 26, 2019, Defendants filed their Notice of Appearance and Demand for Complaint. On January 15, 2020, Garrett publicly filed a redacted Complaint, redacting certain sensitive and confidential information, including certain information subject to the confidentiality agreements referenced above, and also filed the unredacted Complaint as an exhibit to the Affirmation of Michael B. Carlinsky in Support of Plaintiffs' Motion to Seal.

ARGUMENT

Pursuant to Section 216.1 of the Uniform Rules for New York State Trial Courts, documents shall be sealed for good cause. In determining whether good cause exists, the Court considers "the interests of the public as well as of the parties." *See Cohen v. S.A.C. Capital Advisors, LLC*, 11 Misc. 3d 1054(A) (Sup. Ct. N.Y. Cty. 2006) (quoting 22 N.Y.C.R.R. 216.1).

This request for sealing concerns paragraphs 61, 82, 83, 84, 85, 108, 112, 117, 127, 135, 136, 137, 138, 143, 155, 172, 173, 173 n.14, 181, 182, 192, 193, 194, 195, 197, 200, 201, 202, 203, 204, 212, 213, 221, 223, 226, 232, 233, 234, 235, 236, 250 n.23, 258, 259, 260, 261, 263, 264, 265,

266, 273, 274, and 275, and Headings VI.A.1(b) and VI.A.2(c) of the unredacted Complaint (the “**Confidential Information**”). The Confidential Information contained in paragraphs 108, 112, 117, 127, 135, 136, 137, 138, 143, 155, 172, 173, 173 n.14, 181, 182, 192, 193, 194, 195, 197, 200, 201, 202, 203, 204, 212, 213, 221, 223, 226, 232, 233, 234, 235, 236, 250 n.23, 258, 259, 260, 261, 263, 264, 265, 266, 273, 274, and 275, and Headings VI.A.1(b) and VI.A.2(c) is the proper subject of a sealing order because it contains highly sensitive information regarding Honeywell’s Bendix-related asbestos liability, such as certain specific information regarding settlements as well as management of ongoing litigation. Because this information is related to Honeywell’s active asbestos litigation docket, and Garrett is the purported indemnitee of Honeywell’s asbestos liabilities, this information would “disadvantage [Garrett and Honeywell] if made known.” *Century Indem. Co. v. Liberty Mut. Ins. Co.*, 2011 WL 10915618, at *9 (Sup. Ct. N.Y. Cty. July 28, 2011) (“The court finds that Century has demonstrated good cause to seal these documents, as the documents contain sensitive and confidential information . . . concerning claims and issues that are actively under litigation . . . , and the disclosure of which could disadvantage certain of the litigants in that action if made known.”), *aff’d*, 107 A.D.3d 421 (1st Dep’t 2013).

The Confidential Information contained in paragraphs 61, 82, 83, 84, and 85 is also the proper subject of a sealing order because it contains Garrett’s highly sensitive financial and business information, such as the basis for board decisions. Disclosure of such information would cause prejudice and competitive and irreparable harm. *See Jetblue Airways Corp. v. Stephenson*, 2010 WL 6781684, at *6 (Sup. Ct. N.Y. Cty. Nov. 22, 2010) (finding good cause to seal the records because they “contain[ed] sensitive proprietary and business information”); *see also Town of Macedon v. Hsarman*, 17 Misc. 3d 417, 429 (N.Y. Sup. Ct. Wayne Cty. 2007) (granting motion to seal after considering “the sensitive nature of this proprietary business information and the minimal

interest of the public with respect to having access to the information”); *Cohen*, 11 Misc. 3d 1054(A) (granting motion to seal and noting that “[s]ealing records may be particularly appropriate, moreover, when the parties wish to maintain the confidentiality of materials that ‘for the most part involve[] the internal finances’ of a party and do not implicate any matters of public interest” (second alteration in original) (quoting *Feffer v. Goodkind, Wechsler, Labaton & Rudoff*, 152 Misc. 2d 812, 815–16 (Sup. Ct. N.Y. Cty. 1991), *aff’d*, 183 A.D.2d 678 (1st Dep’t 1992))). Additionally, since certain of the information contained in these paragraphs is subject to confidentiality provisions, Garrett is required by contract to seek these protections.

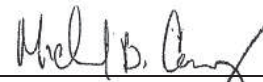
CONCLUSION

Accordingly, Plaintiffs respectfully request that pursuant to Section 216.1 of the Uniform Rules for New York State Trial Courts, this Court enter an Order granting the Motion to Seal or such other and further relief as the Court deems just and proper.

DATED: January 15, 2020
New York, New York

**QUINN EMANUEL URQUHART & SULLIVAN,
LLP**

By:



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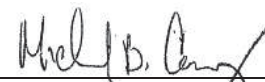
CERTIFICATE OF COMPLIANCE

This memorandum of law complies with the word-count limit of Rule 17 of the Rules of the Commercial Division of the Supreme Court of the State of New York because it contains 1077 words (based on the Microsoft Word word-count function), excluding the parts of the memorandum exempted by Commercial Division Rule 17.

DATED: January 15, 2020
New York, New York

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*Attorneys for Plaintiffs Garrett Motion Inc. and
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EXHIBIT 2

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

GARRETT MOTION INC., *et al.*,

Plaintiffs,

-against-

HONEYWELL INTERNATIONAL INC., *et al.*,

Defendants.

Index No.: 657106/2019

IAS Part 53

Hon. Andrew S. Borrok

Motion Seq. No. 002

NOTICE OF NON-OPPOSITION

Defendants Honeywell International Inc., Honeywell ASASCO LLC, Honeywell ASASCO 2 LLC, Honeywell Holdings International Inc., Su Ping Lu, and Darius Adamczyk (collectively, “Defendants”) in the above-captioned action respectfully file this Notice to advise the Court that Defendants do not oppose the Motion to Seal (NYCEF Doc. No. 18) filed by Plaintiffs on January 15, 2020.

[Remainder of the page intentionally left blank]

Dated: New York, New York
January 29, 2020

/s/ Craig S. Primis

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Erin C. Johnston, P.C.
Ronald K. Anguas, Jr.
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Attorneys for Plaintiffs

EXHIBIT 3

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF NEW YORK : CIVIL TERM : Part 53

3 -----x

4 GARRETT MOTION INC. and GARRETT ASASCO
5 INC.,

Index: 657106/2019

Plaintiffs,

6

-against-

7

8 HONEYWELL INTERNATIONAL INC., HONEYWELL
9 ASASCO LLC, HONEY WELL ASASCO LLC,
HONEYWELL HOLDINGS INTERNATIONAL INC., SU
PING LU, and DARIUS ADAMCZYK,

10

Defendants.

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60 Centre Street
New York, New York 10007
February 4, 2020

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14 B E F O R E: HONORABLE ANDREW S. BORROK, Supreme Court Justice

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A P P E A R A N C E S:

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21

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KIRKLAND & ELLIS, LLP
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BY: Rachel Fritzler, ESQ.

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Michael Ranita
Senior Court Reporter

Proceedings

1 THE COURT: This is Garrett Motion Inc. versus
2 Honeywell International Inc., 657106 of 2019.

3 Your appearances.

4 MR. BALDONI: This is Jeremy Baldoni, with Quinn
5 Emanuel for Garrett Motion and for Garrett Asasco.

6 MS. PALMERSON: I'm Jaclyn Palmerson, also from
7 Quinn Emanuel.

8 THE COURT: Good morning.

9 MS. FRITZLER: Good morning, your Honor. Rachel
10 Fritzler, from Kirkland and Ellis, on behalf of all
11 defendants.

12 THE COURT: Good morning.

13 So a sealing motion. You need a good cause
14 showing. That's -- why doesn't the public have a right to
15 know?

16 MR. BALDONI: Thank you, your Honor. I would like
17 to provide some brief context about the dispute and parties
18 to set the stage for that.

19 Honeywell spun Garrett off into an independent
20 company in 2018. This case is about an indemnification
21 between the parties. Under that agreement, Honeywell is
22 asking Garrett to pay for underlying asbestos litigations
23 that are against Honeywell.

24 Now, about the redactions and sealing, virtually
25 all of the redacted information in the complaint is

Proceedings

1 information that Garrett got from Honeywell. And Garrett is
2 under a confidentiality agreement with Honeywell to keep
3 this information confidential and to seek to seal it, if
4 possible.

5 In addition, Honeywell represented to Garrett,
6 quite a while ago, that much of this information could
7 damage Honeywell if it's released publicly, because it could
8 increase Honeywell's costs under the asbestos litigation,
9 and then that could turn against Garrett because Garrett is
10 paying for the litigation. So Garrett decided to do what it
11 is obligated to do and file this confidential information
12 under seal.

13 To get a little more specific about the redacted
14 information, nearly all of this redacted information is
15 about these underlying asbestos litigations between asbestos
16 plaintiffs all across the country, and Honeywell. Like I
17 mentioned, Honeywell's concern that plaintiffs get their
18 hands on this information, it could reveal Honeywell's
19 litigation strategy. It could harm Honeywell by increasing
20 its liability for those cases. And like I mentioned, this
21 could be a concern for Garrett because we are picking up the
22 tab. However, Garrett is not really in the best position to
23 know the extent of this confidentiality interest. Honeywell
24 manages this asbestos docket. They manage the litigation,
25 the cases. Garrett has no say over that.

Proceedings

1 THE COURT: You are doing pretty good, actually.

2 MR. BALDONI: Thank you, your Honor. And we don't
3 have a say in whether these cases are settled. We don't
4 even have a seat at the table. So we don't really have
5 firsthand knowledge about the extent or the nature of the
6 confidentiality interests, in general, and we believe
7 Honeywell is in a better position to speak to the
8 confidentiality of this information, and we defer to
9 Honeywell on that.

10 Thus, ultimately we redacted the information that
11 we believe Honeywell wanted us to redact and keep
12 confidential in this complaint. And we understand Honeywell
13 will be asserting that much of this information, if not all
14 of this information, be redacted under seal. And we defer
15 to the Court regarding whether this information meets the
16 standard for sealing.

17 THE COURT: Do you want to say anything?

18 MS. FRITZLER: Yes, your Honor. Thank you.

19 So, I mean the slight unusual position that's
20 saying that we think that our opponent got the issue
21 entirely right on the motion to seal, um, that's why we
22 filed a notice of non-opposition.

23 The information that's redacted in the complaint is
24 absolutely critical to Honeywell's ability to effectively
25 defend against these complaints, and also to settle them

Proceedings

1 when that's the right decision, and to settle them
2 effectively for the company. And it is in the public's best
3 interest to allow the parties to reach effective settlement.

4 THE COURT: I agree. Good cause has been shown.
5 I'll grant the motion. Thank you. Have a very nice day to
6 all three of you.

7 * * * * *

8 Certified to be a true and accurate transcript of
9 the stenographic minutes taken within.

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12 Michael Ranita
13 Senior Court Reporter
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EXHIBIT 4

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ANDREW BORROK

PART

IAS MOTION 53EFM

Justice

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INDEX NO. 657106/2019

GARRETT MOTION INC., GARRETT ASASCO INC.,

MOTION DATE 01/16/2020

Plaintiff,

MOTION SEQ. NO. 002

- v -

HONEYWELL INTERNATIONAL INC., HONEYWELL
ASASCO LLC, HONEYWELL ASASCO 2 LLC,
HONEYWELL HOLDINGS INTERNATIONAL INC., SU
PING LU, DARIUS ADAMCZYK

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 18, 19, 20, 21, 22, 24, 25

were read on this motion to/for

SEAL

Upon the foregoing documents, it is ordered that Garrett Motion Inc. and Garrett Asasco Inc.'s motion to seal concerning paragraphs 61, 82, 83, 84, 85, 108, 112, 117, 127, 135, 136, 137, 138, 143, 155, 172, 173, 173 n.14, 181, 182, 192, 193, 194, 195, 197, 200, 201, 202, 203, 204, 212, 213, 221, 223, 226, 232, 233, 234, 235, 236, 250 n.23, 258, 259, 260, 261, 263, 264, 265, 266, 273, 274, and 275, and Headings VI.A.1(b) and VI.A.2(c) of the unredacted complaint (NYSCEF Doc. No. 21) is granted without opposition and upon good cause shown as indicated on the record (2/4/2020). The court, having determined, in accordance with Part 216 of the Uniform Rules for the Trial Courts, that good cause exists for the sealing in part of the file in this action and the grounds therefor having been specified, it is now

ORDERED that the Clerk of the Court is directed, upon service on him (60 Centre Street, Room 141B) of a copy of this order with notice of entry, to seal the unredacted complaint (NYSCEF Doc.

No. 21) in the docket of the New York State Courts Electronic Filing System and to separate this document and to keep it separate from the balance of the file in this action; and it is further

ORDERED that thereafter, or until further order of the court, the Clerk of the Court shall deny access to the said sealed document to anyone (other than the staff of the Clerk or the court) except for counsel of record for any party to this case and any party; and it is further

ORDERED that service upon the Clerk of the Court shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website at the address www.nycourts.gov/supctmanh).

2/4/2020
DATE

CHECK ONE: ☐ CASE DISPOSED ☒ NON-FINAL DISPOSITION

APPLICATION: ☒ GRANTED ☐ DENIED ☐ GRANTED IN PART ☐ OTHER

CHECK IF APPROPRIATE: ☐ SETTLE ORDER ☐ SUBMIT ORDER

☐ INCLUDES TRANSFER/REASSIGN ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

ANDREW BORROK, J.S.C.